

Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 JUSE-00 CA-01 SCS-06 SSO-00
NSCE-00 PA-01 ICAE-00 /024 W
-----039395 131044Z /21
O 131023Z JUN 78
FM AMEMBASSY BONN
TO SECSTATE WASHDC IMMEDIATE 9332

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FOR L/M -- MALMBORG AND LEHNER

E.O. 11652: N/A
TAGS: PDIP GW US
SUBJECT: US-FRG EXTRADITION TREATY

REF: STATE 118786

1. SIGNATURE OF SUBJECT TREATY NOW SET FOR 11:00 A.M.
(0600 WASHINGTON TIME) JUNE 20 AT FRG FOREIGN OFFICE
BY AMBASSADOR STOESSEL, FOREIGN MINISTER GENSCHER AND
JUSTICE MINISTRY STATE SECRETARY ERKEL. AMBASSADOR
STOESSEL AND MINISTER GENSCHER WOULD MAKE ONLY VERY
BRIEF AND GENERAL STATEMENTS NOT DETAILING NEW
DEVELOPMENTS REFLECTED IN TREATY.
EMBASSY URGENTLY REQUIRES DEPARTMENT GUIDANCE
CONCERNING MINOR SUBSTANTIVE CHANGE TO THE DESCRIPTION
IN ARTICLE 26(3) OF DOCUMENTS REQUIRED IN SUPPORT
OF TRANSIT REQUEST.

2. GERMAN SIDE PLANNING TO ISSUE PRESS STATEMENT AT TIME
OF SIGNING WITH APPROXIMATELY FOLLOWING TEXT:

"ON JUNE 20, 1978 A NEW GERMAN-AMERICAN EXTRADITION
TREATY WAS SIGNED AT THE FOREIGN OFFICE BY THE
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AMBASSADOR OF THE UNITED STATES OF AMERICA, WALTER
J. STOESSEL, JR., FEDERAL MINISTER HANS DIETRICH
GENSCHER AND STATE SECRETARY DR. GUENTHER ERKEL OF
THE FEDERAL MINISTRY OF JUSTICE. THE TREATY IS TO
SUPERCEDE THE EXISTING GERMAN-AMERICAN EXTRADITION
TREATY OF JULY 12, 1930. IT IS THE RESULT OF
LENGTHY GERMAN-AMERICAN NEGOTIATIONS. THE TREATY

IS TO COME INTO FORCE AS SOON AS POSSIBLE AFTER THE
NECESSARY PARLIAMENTARY CONSENT TO ITS
RATIFICATION HAS BEEN GRANTED.

"BY MEANS OF THE NEW TREATY THE EXTRADITION RELATIONS
OF THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED
STATES OF AMERICA WILL BE BETTER ADAPTED TO THE
CHANGED NEEDS OF THE MODERN EFFORT TO COMBAT CRIME.
TO THIS END THE AREA OF APPLICATION OF THE TREATY
IS BEING EXPANDED BY COMPARISON WITH THE PROVISIONS
CURRENTLY IN FORCE AND THE PROCEDURES FOR REQUESTING
EXTRADITION AND PROCESSING SUCH REQUESTS ARE BEING
SIMPLIFIED.

"THE FEDERAL GOVERNMENT ATTACHES GREAT IMPORTANCE TO
THE TREATY WHICH MAY SERVE AS A MODEL FOR FURTHER
NEGOTIATIONS WITH STATES HAVING THE ANGLO-AMERICAN
LEGAL TRADITION."

3. WITH THE EXCEPTION OF THE FINAL PARA OF THE GERMAN
TEXT, THE LANGUAGE OF THE PROPOSED STATEMENT APPEARS
GENERALLY ACCEPTABLE AND ADAPTABLE FOR A CORRESPONDING
PRESS RELEASE BY THE DEPARTMENT OF STATE, THE WORDING OF
WHICH NEED NOT BE ABSOLUTELY IDENTICAL. THE JUSTICE
MINISTRY DEEMS IT BEST TO AVOID HIGHLIGHTING PARTICULAR
PROVISIONS OF THE TREATY AS NEW AND IMPORTANT EXPANSIONS
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OVER THE PROVISIONS CURRENTLY GOVERNING US-FRG EXTRA-
DITION REQUIREMENTS AND PROCEDURES, FEARING THAT TO DO
SO WOULD EMPHASIZE SOME ASPECTS WHILE IT IS PREFERABLE

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 JUSE-00 CA-01 SCS-06 SSO-00

NSCE-00 PA-01 ICAE-00 /024 W

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O 131023Z JUN 78
FM AMEMBASSY BONN
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NOT TO POINT OUT OTHERS THAT ARE BEST NOT HIGHLIGHTED BEFORE FULL EXPLANATIONS IN CONNECTION WITH EFFORTS TO OBTAIN PARLIAMENTARY APPROVAL TO RATIFICATION. EMBASSY WOULD APPRECIATE FOR PROVISION TO THE FRG AUTHORITIES THE TEXT OF ANY RELEASE PLANNED BY THE STATE DEPARTMENT, PRESUMABLY FOR THE NOON PRESS BRIEFING JUNE 20 (I.E., SIX HOURS AFTER THE SIGNING CEREMONY AT BONN THAT WOULD PRESUMABLY BE ATTENDED BY THE GERMAN MEDIA WHO WOULD BE FURNISHED THE GERMAN RELEASE DURING THE CEREMONY).

4. DURING THE READ-THROUGH OF THE ENGLISH AND GERMAN TEXTS, ONE MATTER OF SUBSTANCE REQUIRING URGENT CLARIFICATION WAS TURNED UP. IN ARTICLE 26 (TRANSIT), PARA (3), A QUESTION AROSE AS TO THE PRECISE DOCUMENTS REQUIRED TO BE SUBMITTED IN SUPPORT OF A TRANSIT REQUEST. THE JUSTICE MINISTRY REP (WALTER) AND EMBOFF AGREED THAT BASIC TO ALL TRANSIT REQUESTS SHOULD BE BOTH A WARRANT OF ARREST AND A SUMMARY STATEMENT OF THE FACTS OF THE CASE AS REQUIRED BY ARTICLE 14(3)(B). THE SUMMARY STATEMENT OF THE FACTS OF THE CASE SHOULD BE REQUIRED WHETHER THE EXTRADITEE IS BEING EXTRADITED FOR THE PURPOSE OF PROSECUTION OR FOR THE LIMITED OFFICIAL USE

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SERVICE OF A SENTENCE PURSUANT TO A JUDGMENT. THE CONFIRMATION AS CURRENTLY MENTIONED IN ARTICLE 14(4), WHETHER (A) OR (B), I.E., THAT THE JUDGMENT HAS FINAL AND BINDING EFFECT (AND IS ENFORCEABLE), WAS NOT DEEMED NEARLY SO IMPORTANT AS THE SUBMISSION IN ALL CASES, NOT MERELY WHEN EXTRADITION IS BEING EFFECTED FOR THE PURPOSE OF PROSECUTION, OF A SUMMARY STATEMENT OF THE FACTS OF THE CASE. THIS STATEMENT APPEARS ESSENTIAL TO DETERMINE WHETHER THE OFFENSE CONCERNED IS ONE THAT WOULD BE EXTRADITABLE UNDER ARTICLE 2 AND TO ENSURE THAT IT IS NOT COVERED BY ARTICLES 4 OR 5 (SEE ARTICLE 26 (1)).

5. IN ORDER TO CLEAR UP THE ANOMALY IN THE CURRENT TEXT, WALTER AND EMBOFF ARE PROPOSING THAT ARTICLE 26(3) READ AS FOLLOWS:

"SUBJECT TO THE PROVISIONS OF PARAGRAPH (4), THE REQUEST FOR TRANSIT MUST BE ACCOMPANIED BY A WARRANT OF ARREST ISSUED BY A JUDGE OR COMPETENT OFFICER OF THE REQUESTING STATE AND BY A STATEMENT AS MENTIONED IN ARTICLE 14(3)(B)."

THE GERMAN TEXT FOR ARTICLE 26(3) WOULD READ:

"VORBEHALTLICH DES ABSATZES 4 MUESSEN DEM DURCHLIEFERUNGERSUCHEN EIN VON EINEM RICHTER ODER EINEM ZUSTAENDIGEN BEAMTEN DES ERSUCHENDEN STAATES AUSGESTELLTER HAFTBEFEHL UND EINE SACHVERHALTSDARSTELLUNG GEMAESS ARTIKEL 14 ABSATZ 3 BUCHSTABE B BEIGEFUEGT SEIN."

6. AS EMBOFF WILL BE TIED UP AFTERNOON OF JUNE 15 AND AT MEETING AWAY FROM BONN ALL OF JUNE 16, EMBASSY URGENTLY LIMITED OFFICIAL USE

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REQUIRES IMMEDIATE CABLE WITH DEPARTMENT APPROVAL OF ABOVE REFORMULATIONS OF ARTICLE 26(3) IN BOTH LANGUAGES, OR ALTERNATIVE LANGUAGE, BY C.O.B. WASHINGTON JUNE 14 (WEDNESDAY). THIS EARLY APPROVAL IS NEEDED TO PERMIT CORRECTION TO BE MADE BY BOTH SIDES TO ALTERNATS AND TO LEAVE TIME FOR ENGROSSING THAT WILL ENSURE TEXTS ARE READY FOR SIGNATURE JUNE 20 (TUESDAY).

7. ACTION REQUESTED: (A) TEXT OF DEPARTMENT PRESS RELEASE AND TIME OF ITS RELEASE (NOT BEFORE 0600 JUNE 20 WASHINGTON TIME); AND (B) DEPARTMENT APPROVAL OF REFORMULATION OF ARTICLE 26(3) OR ALTERNATIVE LANGUAGE, BY IMMEDIATE CABLE TRANSMITTED NO LATER THAN C.O.B. WASHINGTON JUNE 14.
STOESSEL

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Message Attributes

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Disposition Case Number: n/a
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